

***Commission's Probable Cause
Hearing Transcript***

Exhibit 5

1 BEFORE THE
2 OHIO ELECTIONS COMMISSION
3 PROBABLE CAUSE PANEL

4 - - - - -

RECEIVED

5 IN RE: :

OCT 20 2010

6 Steve Driehaus, :

OHIO ELECTIONS COMMISSION

7 Complainant, :

8 vs. :

Case Nos.

201E-084, 2010E-096

9 Susan B. Anthony :

List, et al.,

10 :

Respondents.

11

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13 Proceedings before Chairman John R.

14 Mroczkowski, Commissioners Harvey H. Shapiro

15 and Chuck Calvert, and Executive Director

16 Philip C. Richter, taken at the Ohio Elections

17 Commission, 21 West Broad Street, Sixth Floor,

18 Columbus, Ohio, on Thursday, October 14, 2010,

19 at 9:55 o'clock a.m.

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1 APPEARANCES:

2 Waite, Schneider, Bayless
3 & Chesley Co., LPA
4 1513 Fourth & Vine Tower
5 Cincinnati, Ohio 45202
6 By Mr. Paul M. DeMarco,

7 On behalf of the Complainant.

8 Bopp, Coleson & Bostrom
9 One South Sixth Street
10 Terre Haute, Indiana 47807
11 By Mr. Joseph E. LaRue and
12 Mr. James Bopp, Jr.,

13 On behalf of the Respondents.

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2 P R O C E E D I N G S

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4 CHAIRMAN MROCZKOWSKI: The next case
5 before us is 2010E-084.

6 MR. RICHTER: Mr. Chairman, members,
7 briefly before the matter is taken under
8 consideration, there's a couple of kind of
9 house-cleaning items.

10 One is, one relates to the fact that
11 counsel for the respondent here, the Susan B.
12 Anthony List, is an out-of-state counsel.
13 Request has been made to allow him to appear
14 before this commission pro hac vice as an
15 out-of-state lawyer. I'd recommend that we
16 approve -- that the Chairman approve that
17 motion to allow him to appear.

18 CHAIRMAN MROCZKOWSKI: And that
19 person is?

20 MR. RICHTER: Mr. LaRue, Joseph
21 LaRue.

22 MR. LARUE: No, sir, I'm an Ohio
23 lawyer, but I made the motion on behalf of Mr.
24 Bopp, Mr. James Bopp, Jr.

1 MR. RICHTER: Oh, okay, sorry.

2 MR. LARUE: That's all right.

3 MR. RICHTER: My mistake. Then for
4 Mr. Bopp.

5 CHAIRMAN MROCZKOWSKI: Commission
6 members?

7 MR. CALVERT: I have no objection.

8 MR. SHAPIRO: I have no objection.
9 I move that we accept that and allow that.

10 CHAIRMAN MROCZKOWSKI: The record
11 will show that Attorney James Bopp will be an
12 attorney of record. Mr. DeMarco?

13 MR. DEMARCO: No objection.

14 MR. RICHTER: One other item, I
15 don't know that the Commission needs to take
16 it up right away; I've addressed this briefly
17 with you prior to the commencement of the
18 meeting. Along with this complaint, we have
19 another complaint, 2010E-096, that was filed
20 that is right now listed on today's 3:00
21 probable cause panel agenda.

22 In brief conversation that I had,
23 Mr. DeMarco is aware of it. Mr. LaRue, who is
24 co-counsel for the respondent, is also aware

1 of it. My staff had conversation with Mr.
2 DeMarco, indicated he would like to see it
3 addressed this morning, and I had a
4 conversation with Mr. LaRue in which he
5 indicated that while his preference was not to
6 have it addressed at all, that if it were to
7 be addressed by the Commission, his preference
8 would be to have it addressed at this
9 morning's meeting, as well.

10 So we would need to have a motion to
11 add that to the agenda. I'm not sure if you
12 want to get other comments from counsel as it
13 relates to the particular status of this
14 complaint, but my recommendation would be that
15 we add that to the agenda today, or to this
16 morning's agenda, mainly for the convenience
17 of the parties.

18 MR. SHAPIRO: Are you suggesting
19 consolidation of the two cases, or?

20 MR. RICHTER: Yeah, I would say yes,
21 only because all of the statements that are at
22 issue evolve out of the same circumstances,
23 and it involved the same parties and the same
24 counsel, so that would be my recommendation.

1 MR. SHAPIRO: Do respondents agree
2 to that, also?

3 MR. BOPP: Yes, Your Honor.

4 MR. SHAPIRO: All right. Then I
5 move that we consolidate cases 2010E-084 and
6 2010E-096 for purposes of hearing that this
7 morning.

8 MR. CALVERT: I'll second that
9 motion.

10 CHAIRMAN MROCZKOWSKI: Correctly
11 moved and seconded that we combine cases
12 2010E-084 and 2010E-096 and hear those cases
13 this morning. Any further discussion?

14 All those in favor, signify by
15 saying aye.

16 MEMBERS: Aye.

17 CHAIRMAN MROCZKOWSKI: Opposed, no.
18 Ayes have it.

19 Mr. DeMarco.

20 MR. DEMARCO: Good morning, members
21 of the Commission. Paul DeMarco for Steve
22 Driehaus, member of Congress in the First
23 Congressional District. There are three
24 allegations in this particular case as

1 consolidated.

2 First, I want to deal with the
3 disclaimer allegation violation at .20(A) on
4 this ad and political communication.

5 The SBA, which fits within the
6 "other entity" and also "political action
7 committee" definition, electronically
8 disseminated this ad, as evidenced by
9 Exhibit G. That fits within the general
10 publication language of .2(A). It is a form
11 of advertisement, according to their own
12 answer on page 1, and it is against the
13 congressman in order to defeat him.

14 Exhibit F at page 2 announces that
15 the SBA List, quote, has committed \$1.5
16 million to defeat so-called Pro-Life Democrats
17 who voted for the bill identifying Congressman
18 Driehaus by name. And it also has a Web site
19 in which it endorses his opponent.

20 So this is a political communication
21 under .2(A) by another entity, which must bear
22 the disclaimer language and does not, and
23 therefore, that is a violation of .2(A).

24 The second allegation deals with the

1 falsity of the ad itself. If the hundred
2 pages that respondent has filed in response to
3 the complaint are any indication, they will
4 tell you that this ad merely asserts their
5 opinion.

6 Let me remind the members of the
7 Commission exactly what they said. Exhibit A,
8 quote: Driehaus voted for taxpayer-funded
9 abortion. Unquote.

10 Exhibit F: Driehaus voted for a
11 health care bill that includes taxpayer-funded
12 abortion. Unquote.

13 And as to the notion that this is
14 merely their opinion, Exhibit H, issued on
15 October 7th, after the filing in this case,
16 rather than a retraction, we have another
17 political communication in which they say,
18 quote: It is a fact -- not opinion -- it is a
19 fact that Steve Driehaus has voted for a bill
20 that includes taxpayer funding of abortions.

21 Their ads and political
22 communications do not say that he voted for a
23 bill that, with those hundred pages of
24 what-ifs, might some day lead to the federal

1 funding of abortion if things that have never
2 happened before occur.

3 Rather, they flatly stated that the
4 bill that he voted for, unlike the other cases
5 we've talked about this morning, there is a
6 law that has been passed and that he voted
7 for, and they have to demonstrate where in
8 that law there is included a provision that
9 actually created a federal funding source and
10 then directed that federal funding mechanism
11 to abortions.

12 Rather than there being such a
13 provision, there is actually a prohibition in
14 the law that Congressman Driehaus voted for,
15 and it is contained in Section 1302, entitled
16 Prohibition on the Use of Federal Funds.

17 So not only is this a situation
18 where they cannot demonstrate that he voted
19 for something, he actually voted for the
20 opposite.

21 Now, if their hundred pages -- if
22 they had a provision in this bill that showed
23 that he voted for a bill that created a
24 federal funding mechanism and directed that

1 federal funding mechanism to abortion, they
2 wouldn't, with all due respect, need 100 pages
3 to try to convince you of that. One page
4 would do. Show us the provision in the bill.
5 They cannot do that.

6 They raise the specter of other
7 hypothetical events happening. Community
8 health centers, for example, would be allowed,
9 they say, under this bill, impliedly
10 authorized to perform abortions.

11 That's not the reality. The reality
12 is, community health centers have existed for
13 30 years; they've never performed abortions,
14 because by federal regulation they cannot.

15 They raise the specter of this new
16 animal, high-risk pools, which are these
17 insurance plans that will exist until the
18 preexisting condition coverage is in effect in
19 2014. They say the high risk pools could
20 cover abortions.

21 Not so. As they concede themselves,
22 in the Johnson affidavit at paragraph 40, the
23 Department of Health and Human Services has
24 determined no funding of abortions in the

1 high-risk pools.

2 There is no basis, members of the
3 Commission, for their statement.

4 Furthermore, if you look at the very
5 pivotal affidavit of Kristin Day, she
6 documents a meeting at which pro-life
7 organizations and members of Congress were
8 present. The statement was made: We cannot
9 really say this is federal funding for
10 abortions.

11 And from that time on, the SBA List
12 consistently has taken the opposite position.
13 Even though it was stated at a meeting of
14 pro-life organizations, there was general
15 recognition, no refutation, the SBA List
16 continued thereafter to make this
17 characterization.

18 The third allegation in this
19 complaint is another false statement. And
20 that is, after this complaint was filed, they
21 issued another political communication in
22 which they attacked Congressman Driehaus and
23 promoted his defeat, and they added this:
24 That he, quote, ordered Lamar Companies, which

1 is the billboard company, not to put up
2 billboards until the matter was settled by the
3 Ohio Elections Commission.

4 This statement is a fabrication. It
5 did not occur. As Congressman Driehaus says
6 in paragraph 4 of his affidavit: I have never
7 spoken to anyone from Lamar Advertising, much
8 less issued any orders to that company about
9 the billboards that the SBA List has
10 threatened to put up falsely accusing me of
11 voting for taxpayer-funded abortion, nor has
12 anyone acting on my behalf ordered Lamar not
13 to put up the billboards. It is simply a
14 fabrication.

15 We ask that probable cause be found
16 on all of the allegations of the complaint
17 that I have outlined.

18 And I would reserve the balance of
19 my time.

20 CHAIRMAN MROCZKOWSKI: To clarify,
21 if you would, Mr. DeMarco, you're talking
22 about basically a disclaimer and a false
23 statement?

24 MR. DEMARCO: A disclaimer and two

1 false statements. Actually, the false
2 statements as to the ad consist of three
3 statements, which are consistent with one
4 another, and then a separate false statement
5 about him having ordered the billboard
6 company.

7 CHAIRMAN MROCZKOWSKI: I just wanted
8 to get that clear. Thank you.

9 MR. RICHTER: Briefly, just before
10 we continue, you went beyond your time, Mr.
11 DeMarco, which is not the end of the world,
12 nobody stopped you, but I'll give you the same
13 accommodation, Mr. Bopp, as well.

14 MR. BOPP: Thank you very much, and
15 thank you for allowing me to participate in
16 this hearing and before this Commission.

17 This is a probable cause hearing.
18 However, we are suffering damage today, we've
19 been suffering damage ever since this
20 complaint was filed, and that is because Mr.
21 DeMarco on behalf of the congressman contacted
22 the advertising agency and threatened to sue
23 them if they didn't agree not to place our
24 billboards up, as they had contracted to do.

1 And they sent a letter that
2 confirmed this, and, of course, this is the
3 reference we have made to ordering the
4 billboard company not to put up the
5 billboards; that is, he threatened them with
6 suit if they did so.

7 CHAIRMAN MROCZKOWSKI: I don't
8 believe we have any jurisdiction over any of
9 that. We're here to hear the issues on the
10 complaint, and if you would, sir, keep your
11 comments to that and we'll go from there.

12 MR. BOPP: Well, his last complaint,
13 as I understood it, is that he is complaining
14 that we said in the press release that they
15 had ordered the billboard company, that is,
16 the congressman, not to put up the billboards.
17 And this is the evidence that they did that.

18 Now, furthermore, I brought it to
19 the Commission's attention because if you bind
20 this thing over for a hearing, we will
21 continue for the next two weeks to suffer the
22 denial of our First Amendment rights. So from
23 our standpoint, while I understand this is a
24 probable cause hearing, it is very

1 consequential to the right of my client to
2 speak about these matters.

3 Now, as to the disclaimer, this is a
4 federal race. Federal races are governed by
5 the Federal Election Campaign Act. There is
6 no state laws that can provide for
7 disclaimers; that is preempted by federal law.
8 So there is no state requirement on a
9 communication involving a federal race that
10 you must have a state-approved disclaimer,
11 because this is a federal race governed by the
12 Federal Election Campaign Act.

13 Secondly, as to the claimed false
14 statement that the congressman voted for
15 taxpayer-funded abortion: Of course, we were,
16 as has been acknowledged, talking about the
17 passage of Obamacare.

18 When Obamacare was adopted, 34
19 Democrats as well as all Republicans voted
20 against it. The vast majority of those
21 Democrats voted against Obamacare, that the
22 Congress voted for, because, as Congressman
23 Lipps of Illinois, a Democrat Congressman,
24 said: Of great concern to me and to a

1 significant majority of my constituents, the
2 bill changes current federal law and provides
3 funding for abortion. This is not acceptable.

4 So the vast majority of Democrats
5 who opposed this did so on the same grounds
6 that Susan B. Anthony List is saying that a
7 vote for this bill would provide funding of
8 abortion.

9 Now, most obvious to that, and there
10 are four provisions of the bill that we want
11 to make reference to, which we have discussed
12 in our submissions, that allow for funding of
13 abortion.

14 Now, two of those -- and the only
15 one that they ever discussed or Professor
16 Joyce mentions is the second one: Where there
17 is a specific provision that limits funding of
18 abortion to life of the mother, rape and
19 incest.

20 So if we stop right there, this bill
21 allows for taxpayer funding of abortion for
22 life, rape and incest. That's taxpayer
23 funding of abortion. That is not a policy my
24 client would support. They would support only

1 taxpayer funding of abortion for life of the
2 mother, not for rape and incest.

3 So Obamacare, with its expanded
4 exceptions of rape and incest, are for
5 providing for funding of abortion,
6 unquestionably, and to the extent that my
7 client objects.

8 Now, secondly, only these two
9 provisions, here and here (indicating), have a
10 specific provision that prevents funding of
11 abortion. The others, this one and these two,
12 there is no statutory provision that prevents
13 funding of abortion. In fact, one of those
14 provisions specifically allows for funding of
15 abortion: Abortions for which public funding
16 is allowed.

17 So there is statutory authorization
18 for publicly funded abortions under Obamacare
19 in the statute.

20 Now, right now, because of the Hyde
21 Amendment, which is a separate provision of an
22 appropriations bill which is not part of
23 Obamacare, this would be limited to life of
24 the mother, rape and incest. That is funding

1 of abortion, beyond what my client would
2 support, but if that ever goes down, which it
3 has to be renewed year after year after year,
4 then the statute authorizes the funding of
5 abortion. That's what we said he voted for, a
6 statute that authorizes the funding of
7 abortion.

8 Now, let me go back to this chart
9 and drill down into this one provision here,
10 and this is the provision --

11 MR. SHAPIRO: What's the section
12 number of that provision?

13 MR. BOPP: That is 101 -- excuse me.
14 It's 1101, which creates immediate temporary
15 preexisting condition insurance plans. That
16 is for high-risk patients.

17 Now, the Congressional Research
18 Service on July 23rd -- and the Congressional
19 Research Service is bipartisan -- issued a
20 report, which is Exhibit N, confirming that
21 neither the Hyde Amendment nor any provision
22 of PPACA -- which is this, the statute --
23 prevented the use of funds in the high-risk
24 preexisting condition insurance plans from

1 being used to cover abortion.

2 So it's allowed, according to the
3 Congressional Research Service, by that
4 provision.

5 Now, it is true that when plans were
6 approved that included abortion, the Obama
7 administration adopted another rule,
8 administrative rule, that said we're not going
9 to approve those plans. The ACLU said, about
10 that action of the White House: The White
11 House has decided to voluntarily impose the
12 ban for all women in the newly created
13 high-risk insurance pools.

14 What is disappointing is that there
15 is nothing in the law that requires the Obama
16 administration to impose this broad and highly
17 restrictive abortion ban. Nothing in the law.
18 It is the law that the advertisement refers
19 to, it is the law that allows for federally
20 funded abortions, and so that statement is
21 categorically true, which we said about the
22 congressman, and therefore this should be
23 dismissed.

24 MR. SHAPIRO: Sir, could you state

1 your name and address for the record.

2 MR. BOPP: Yes. It's James Bopp
3 Jr., and I'm sorry, I don't know who asked me
4 that.

5 MR. SHAPIRO: I asked you that.

6 MR. BOPP: Oh, I'm sorry, okay, for
7 her. James Bopp, Jr. It's One South Sixth
8 Street, Terre Haute, Indiana, 47807.

9 MR. SHAPIRO: Thank you.

10 CHAIRMAN MROCZKOWSKI: Rebuttal, Mr.
11 DeMarco?

12 MR. RICHTER: About a minute, Mr.
13 DeMarco.

14 MR. DEMARCO: Thank you. May I
15 actually use the chart on both of these
16 points?

17 The representation was made that
18 this creates federal funding for abortions.
19 That is a reference to the Hyde Amendment,
20 which already was federal law. There is no
21 language in this bill that creates new federal
22 funding. It's already permitted under the
23 Hyde Amendment.

24 Now, if they want to say that the

1 Hyde Amendment is federal funding for
2 abortions, that's a different story, but
3 that's not in the bill that was voted for by
4 Congressman Driehaus. That's a preexisting
5 law that was voted for by, not just this
6 Congress, but every other Congress since 1976.

7 I want you to take a look, for
8 example, at their own affidavit. Mr. Johnson.
9 He talks about taxpayer funding abortions in
10 narrow circumstances. He defines it in
11 paragraph 14. He says: A vote for that is
12 not a vote for taxpayer funding of abortion.

13 So their thesis is, if it doesn't
14 prohibit it expressly, like in high-risk
15 pools, then it must authorize funding for it.

16 Not true. High-risk pools have been
17 ruled out by the Department of Health and
18 Human Services already, as have the community
19 health centers. The references in those
20 charts are to preexisting law, not new sources
21 of funding. They are in there as definitional
22 provisions so that you can understand the
23 prohibition in what I handed to you, which is
24 1303.

1 The prohibition also includes
2 segregation by the enrollee; they have to pay
3 by separate check; it never flows through the
4 federal government for abortion coverage; and
5 the issuer has to segregate totally. There is
6 complete segregation on the part of the
7 enrollee and the issuer. Therefore, there is
8 no federal funding of abortion in this bill.

9 CHAIRMAN MROCZKOWSKI: Questions of
10 the Commission? Mr. Shapiro.

11 MR. SHAPIRO: Mr. DeMarco, could you
12 address the jurisdictional, a question where
13 counsel says that this Commission has no
14 authority with regard to disclaimers because
15 it's a federal election; what's your response
16 to that?

17 MR. DEMARCO: I see nothing in .20
18 that would except from the obligation to issue
19 the disclaimer an out-of-state company -- or
20 out-of-state entity that is trying to
21 influence a federal election in Ohio.

22 This entity pulled a bus into
23 Cincinnati in August as part of this campaign.
24 I can't imagine that that -- and as part of

1 this campaign wants to put billboards and up
2 and whatnot. I can't imagine them making an
3 argument they're not subject to this
4 jurisdiction.

5 CHAIRMAN MROCZKOWSKI: Any other
6 questions?

7 Director, there was an issue made by
8 counsel about the rights of this Commission
9 dealing with federal elections. What's the
10 status?

11 MR. RICHTER: Were this organization
12 to have established itself as a political
13 action committee in Ohio by filing either --
14 presumably considering where they're working,
15 either in the Hamilton County Board of
16 Elections or with the State of Secretary, then
17 I believe they would be subjected to Ohio's
18 disclaimer law.

19 However, as they are acting in a
20 federal election, and this Commission, as we
21 all know, is preempted dealing in general with
22 campaign finance laws for federal campaigns,
23 as there are federal statutes; in addition, as
24 it relates to the disclaimer law, there are

1 federal statutes that preempt the Commission's
2 applicability in these kinds of situations.

3 So I would tend to agree that in
4 this particular instance, the obligation on
5 the Susan B. Anthony List would be to comply
6 with federal law under these circumstances.

7 MR. SHAPIRO: Mr. Chairman.

8 Mr. Director, this is an Ohio
9 election for a representative to go to
10 Washington. This isn't a nationwide election;
11 it's not a federal election, as I understand
12 it. We deal with all elections that take
13 place in Ohio except the President, which is a
14 federal election.

15 If you are campaigning in Ohio,
16 you're subject to the Ohio election laws. If
17 they have not registered, that may be another
18 issue. But where you're submitting political
19 materials in a campaign that is an Ohio
20 election, you're subject to our laws. I'm not
21 sure I understand your position.

22 MR. RICHTER: Well, I would agree
23 with you as it relates to the false statement
24 sections. There is no federal statute that

1 places any restrictions on political -- on
2 whether there are false statements in campaign
3 materials.

4 But were we to allow this proceeding
5 to go forward as it relates to the disclaimer
6 on this group, then you could also make the
7 same argument as it relates to any of the
8 campaign commercials of the various, either
9 organizations that are operating or with
10 regard to the candidates, because they were
11 all governed by federal law, and the
12 disclaimer requirements placed on federal
13 candidates is different than Ohio's disclaimer
14 law.

15 MR. SHAPIRO: With regard to their
16 finances.

17 MR. RICHTER: No, no, no, with
18 regard to their campaign materials. If you
19 ever look at a TV commercial or any other
20 materials that are circulated by a federal
21 campaign, their disclaimers are different, as
22 is allowed by federal law, than is required
23 under Ohio's statute.

24 And as it relates to their

1 operations -- I appreciate that they are on
2 the Ohio ballot and they're Ohio candidates in
3 that regard, but as it relates to their
4 campaign finance activities and as it relates
5 to their other procedural aspects of their
6 campaigns, federal law covers the field there
7 and prescribes any action, I believe,
8 prescribes any action by this Commission as it
9 relates to those aspects of campaigning and
10 campaign finance law.

11 MR. CALVERT: Mr. Chairman.

12 CHAIRMAN MROCZKOWSKI: Yes, Mr.
13 Calvert.

14 MR. CALVERT: I think we've
15 addressed this issue in the past, that the
16 disclaimer is related to who paid for the ad
17 and is part of the finance rules, and those
18 are controlled by the federal government, not
19 the state. We've had this issue several times
20 since I've been here, and I think we've ruled
21 that the disclaimer has to meet the federal,
22 and if there's a problem with it, they take it
23 to the Federal Elections Commission.

24 CHAIRMAN MROCZKOWSKI: Then as far

1 as the complaint dealing with the disclaimer,
2 what's the wishes of the Commission?

3 MR. CALVERT: I make a motion with
4 regard to the disclaimer that we find no
5 probable cause and dismiss it.

6 CHAIRMAN MROCZKOWSKI: Because of
7 lack of jurisdiction? I'll second that.
8 We'll have a roll call.

9 MR. RICHTER: Mr. Shapiro.

10 MR. SHAPIRO: No.

11 MR. RICHTER: Mr. Calvert.

12 MR. CALVERT: Yes.

13 MR. RICHTER: Mr. Mroczkowski.

14 CHAIRMAN MROCZKOWSKI: Yes.

15 MR. RICHTER: Motion passes two to
16 one.

17 CHAIRMAN MROCZKOWSKI: The
18 allegations as far as false statements do fall
19 within the jurisdiction of this Commission.
20 Am I correct, Director?

21 MR. RICHTER: That's correct, Mr.
22 Chairman, and that has been substantiated, or
23 upheld, I should say, in prior cases that the
24 Commission has addressed.

1 CHAIRMAN MROCZKOWSKI: As far as the
2 issues of false statement, what's the
3 Director's recommendation on cases 2009E-084
4 and 096?

5 MR. RICHTER: My recommendation is
6 to find no probable cause and dismiss.

7 MR. CALVERT: Correction, if I may.
8 You said 2009. They're 2010, sir. Just for
9 the record.

10 CHAIRMAN MROCZKOWSKI: I stand
11 corrected. 2010E-086 and 096.

12 MR. CALVERT: 2010E-084 and 096.

13 CHAIRMAN MROCZKOWSKI: What do I
14 have, two different cases here? Yes, I do.
15 All right. We'll start this thing over again.

16 In cases 2010E-084 and 096, the
17 Director's recommendation is to find no
18 probable cause and dismiss. What's the wishes
19 of the Commission?

20 MR. CALVERT: Mr. Chairman?

21 CHAIRMAN MROCZKOWSKI: Yes.

22 MR. CALVERT: I make a motion in
23 case 2010E-084 and 2010E-096 that we find no
24 probable cause and dismiss the two cases.

1 CHAIRMAN MROCZKOWSKI: Seems that
2 motion dies for lack of a second. Is there
3 another motion before this Commission?

4 MR. SHAPIRO: Mr. Chairman, with
5 regard to the false statement charges in 084
6 and 096, I move that we find probable cause
7 and set this matter for a hearing before the
8 full commission.

9 CHAIRMAN MROCZKOWSKI: I second that
10 motion. Any discussion?

11 Roll call.

12 MR. RICHTER: Mr. Calvert.

13 MR. CALVERT: No.

14 MR. RICHTER: Mr. Shapiro.

15 MR. SHAPIRO: Yes.

16 MR. RICHTER: Mr. Mroczkowski.

17 CHAIRMAN MROCZKOWSKI: Yes.

18 MR. RICHTER: Motion passes two to
19 one.

20 - - - - -

21 Thereupon, the proceedings were
22 concluded at 10:26 o'clock a.m.

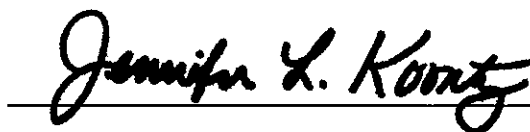
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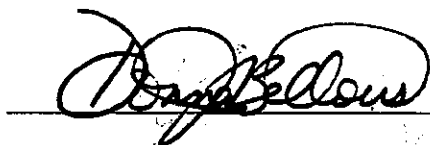
CERTIFICATE

The undersigned do hereby certify that the foregoing proceedings were digitally recorded, electronically transmitted, and transcribed via audible playback, and that the foregoing transcript of such proceedings is a full, true and correct transcript of the proceedings as so recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 19th day of October 2010.



JENNIFER L. KOONTZ
Certified Digital Reporter
Notary Public - State of Ohio.
My commission expires September 15, 2013.



DONNA J. BELLOUS
Certified Digital Transcriber

A	26:15 27:24	answer (1)	aye (2)	bipartisan (1)
abortion (26)	administration ...	7:12	6:15,16	18:19
8:9,12 9:1 10:1	19:7,16	Anthony (4)	Ayes (1)	Board (1)
12:11 15:15	administrative ...	1:9 3:12 16:6	6:18	23:15
16:3,8,13,18,21	19:8	24:5	a.m (2)	Bopp (15)
16:23 17:1,5,11	adopted (2)	appear (2)	1:19 29:22	2:6,8 3:24,24 4:4
17:13,15 18:1,5	15:18 19:7	3:13,17	<hr/> B <hr/>	4:11 6:3 13:13
18:7 19:1,6,17	ads (1)	APPEARANC...	B (4)	13:14 14:12
21:12 22:4,8	8:21	2:1	1:9 3:11 16:6	18:13 20:2,2,6,7
abortions (13)	advertisement (2)	applicability (1)	24:5	Bostrom (1)
8:20 9:11 10:10	7:11 19:18	24:2	back (1)	2:6
10:13,20,24	advertising (2)	appreciate (1)	18:8	brief (1)
11:10 17:15,18	12:7 13:22	26:1	balance (1)	briefly (3)
19:20 20:18	affidavit (4)	appropriations ...	12:18	3:7 4:16 13:9
21:2,9	10:22 11:5 12:6	17:22	ballot (1)	broad (2)
accept (1)	21:8	approve (3)	26:2	1:17 19:16
4:9	affixed (1)	3:16,16 19:9	ban (2)	brought (1)
acceptable (1)	30:12	approved (1)	19:12,17	14:18
16:3	agency (1)	19:6	basically (1)	bus (1)
accommodatio...	13:22	argument (2)	12:22	<hr/> C <hr/>
13:13	agenda (4)	23:3 25:7	basis (1)	C (2)
accusing (1)	4:21 5:11,15,16	asked (2)	11:2	1:16 3:2
12:10	agree (4)	20:3,5	Bayless (1)	call (2)
acknowledged (1)	6:1 13:23 24:3,22	aspects (2)	2:2	27:8 29:11
15:16	al (1)	26:5,9	bear (1)	Calvert (15)
ACLU (1)	1:9	asserts (1)	7:21	1:15 4:7 6:8
Act (2)	allegation (3)	8:4	behalf (5)	26:11,13,14
15:5,12	7:3,24 11:18	attacked (1)	2:5,9 3:23 12:12	27:3,11,12 28:7
acting (2)	allegations (3)	11:22	13:21	28:12,20,22
12:12 23:19	6:24 12:16 27:18	attention (1)	believe (3)	29:12,13
action (5)	allow (5)	14:19	14:8 23:17 26:7	campaign (12)
7:6 19:10 23:13	3:13,17 4:9 16:12	attorney (2)	BELLOUS (1)	15:5,12 22:23
26:7,8	25:4	4:11,12	30:23	23:1,22 24:19
activities (1)	allowed (4)	audible (1)	beyond (2)	25:2,8,18,21
26:4	10:8 17:16 19:2	30:6	13:10 18:1	26:4,10
ad (6)	25:22	August (1)	bill (17)	campaigning (2)
7:4,8 8:1,4 13:2	allowing (1)	22:23	7:17 8:11,19,23	24:15 26:9
26:16	13:15	authority (1)	9:4,22,23 10:4,9	campaigns (2)
add (2)	allows (3)	22:14	16:2,7,10,20	23:22 26:6
5:11,15	16:21 17:14	authorization (1)	17:22 20:21	candidates (3)
added (1)	19:19	17:17	21:3 22:8	25:10,13 26:2
11:23	Amendment (6)	21:15	billboard (4)	care (1)
addition (1)	14:22 17:21	authorize (1)	12:1 13:5 14:4,15	8:11
23:23	18:21 20:19,23	authorized (1)	billboards (7)	case (5)
address (2)	21:1	10:10	12:2,9,13 13:24	1:8 3:4 6:24 8:15
20:1 22:12	animal (1)	authorizes (2)	14:5,16 23:1	28:23
addressed (7)	10:16	aware (2)	bind (1)	
4:16 5:3,6,7,8	announces (1)	4:23,24	14:19	
	7:14			

cases (10) 5:19 6:5,11,12 9:4 27:23 28:3 28:14,16,24 categorically (1) 19:21 cause (10) 1:3 4:21 12:15 13:17 14:24 27:5 28:6,18,24 29:6 centers (3) 10:8,12 21:19 CERTIFICAT... 30:1 Certified (2) 30:18,23 certify (1) 30:3 Chairman (32) 1:13 3:4,6,16,18 4:5,10 6:10,17 12:20 13:7 14:7 20:10 22:9 23:5 24:7 26:11,12 26:24 27:6,14 27:17,22 28:1 28:10,13,20,21 29:1,4,9,17 changes (1) 16:2 characterizatio... 11:17 charges (1) 29:5 chart (2) 18:8 20:15 charts (1) 21:20 check (1) 22:3 Chesley (1) 2:2 Chuck (1) 1:15 Cincinnati (2) 2:3 22:23 circulated (1) 25:20	circumstances (3) 5:22 21:10 24:6 claimed (1) 15:13 clarify (1) 12:20 clear (1) 13:8 client (4) 15:1 16:24 17:7 18:1 Coleson (1) 2:6 Columbus (2) 1:18 30:13 combine (1) 6:11 commencement... 4:17 comments (2) 5:12 14:11 commercial (1) 25:19 commercials (1) 25:8 commission (24) 1:2,17 3:14 4:5 4:15 5:7 6:21 8:7 11:3 12:3 13:16 22:10,13 23:8,20 26:8,23 27:2,19,24 28:19 29:3,8 30:19 Commissioners... 1:14 Commission's (2) 14:19 24:1 committed (1) 7:15 committee (2) 7:7 23:13 communication... 7:4,20 8:17 11:21 15:9 communication... 8:22 community (3) 10:7,12 21:18	Companies (1) 11:24 company (6) 12:1,8 13:6 14:4 14:15 22:19 Complainant (2) 1:7 2:5 complaining (1) 14:13 complaint (11) 4:18,19 5:14 8:3 11:19,20 12:16 13:20 14:10,12 27:1 complete (1) 22:6 comply (1) 24:5 concede (1) 10:21 concern (1) 15:24 concluded (1) 29:22 condition (3) 10:18 18:15,24 confirmed (1) 14:2 confirming (1) 18:20 Congress (5) 6:22 11:7 15:22 21:6,6 Congressional (4) 6:23 18:17,18 19:3 congressman (12) 7:13,17 9:14 11:22 12:5 13:21 14:16 15:14,22,23 19:22 21:4 consequential (1) 15:1 consideration (1) 3:8 considering (1) 23:14 consist (1)	13:2 consistent (1) 13:3 consistently (1) 11:12 consolidate (1) 6:5 consolidated (1) 7:1 consolidation (1) 5:19 constituents (1) 16:1 contacted (1) 13:21 contained (1) 9:15 continue (2) 13:10 14:21 continued (1) 11:16 contracted (1) 13:24 controlled (1) 26:18 convenience (1) 5:16 conversation (3) 4:22 5:1,4 convince (1) 10:3 correct (3) 27:20,21 30:8 corrected (1) 28:11 Correction (1) 28:7 Correctly (1) 6:10 counsel (6) 3:11,12 5:12,24 22:13 23:8 County (1) 23:15 couple (1) 3:8 course (2) 14:2 15:15 cover (2)	10:20 19:1 coverage (2) 10:18 22:4 covers (1) 26:6 co-counsel (1) 4:24 created (3) 9:9,23 19:12 creates (3) 18:14 20:18,21 current (1) 16:2 <hr/> D (1) 3:2 damage (2) 13:18,19 day (3) 8:24 11:5 30:13 deal (2) 7:2 24:12 dealing (3) 23:9,21 27:1 deals (1) 7:24 decided (1) 19:11 defeat (3) 7:13,16 11:23 defines (1) 21:10 definition (1) 7:7 definitional (1) 21:21 DeMarco (17) 2:4 4:12,13,23 5:2 6:19,20,21 12:21,24 13:11 13:21 20:11,13 20:14 22:11,17 Democrat (1) 15:23 Democrats (4) 7:16 15:19,21 16:4 demonstrate (2)
--	--	--	--	--

9:7,18 denial (1) 14:22 Department (2) 10:23 21:17 determined (1) 10:24 dies (1) 29:2 different (4) 21:2 25:13,21 28:14 Digital (2) 30:18,23 digitally (1) 30:4 directed (2) 9:10,24 Director (4) 1:15 23:7 24:8 27:20 Director's (2) 28:3,17 disappointing (1) 19:14 disclaimer (16) 7:3,22 12:22,24 15:3,10 22:19 23:18,24 25:5 25:12,13 26:16 26:21 27:1,4 disclaimers (3) 15:7 22:14 25:21 discussed (2) 16:11,15 discussion (2) 6:13 29:10 dismiss (4) 27:5 28:6,18,24 dismissed (1) 19:23 disseminated (1) 7:8 District (1) 6:23 documents (1) 11:6 DONNA (1) 30:23	Driehaus (10) 1:6 6:22 7:18 8:8 8:10,19 9:14 11:22 12:5 21:4 drill (1) 18:9 due (1) 10:2 <hr/> E <hr/> E (3) 2:7 3:2,2 effect (1) 10:18 either (3) 23:13,15 25:8 election (11) 15:5,12 22:15,21 23:20 24:9,10 24:11,14,16,20 elections (7) 1:2,16 12:3 23:9 23:16 24:12 26:23 electronically (2) 7:7 30:5 endorses (1) 7:19 enrollee (2) 22:2,7 entitled (1) 9:15 entity (4) 7:6,21 22:20,22 established (1) 23:12 et (1) 1:9 events (1) 10:7 evidence (1) 14:17 evidenced (1) 7:8 evolve (1) 5:22 exactly (1) 8:7 example (2)	10:8 21:8 exceptions (1) 17:4 excuse (1) 18:13 Executive (1) 1:15 Exhibit (6) 7:9,14 8:7,10,14 18:20 exist (1) 10:17 existed (1) 10:12 expanded (1) 17:3 expires (1) 30:19 expressly (1) 21:14 extent (1) 17:6 <hr/> F <hr/> F (2) 7:14 8:10 fabrication (2) 12:4,14 fact (4) 3:10 8:18,19 17:13 fall (1) 27:18 false (11) 11:19 12:22 13:1 13:1,4 15:13 24:23 25:2 27:18 28:2 29:5 falsely (1) 12:10 falsity (1) 8:1 far (3) 26:24 27:18 28:1 favor (1) 6:14 federal (41) 8:24 9:9,10,16,24 10:1,14 11:9	15:4,4,5,7,9,11 15:12 16:2 20:18,20,21 21:1 22:4,8,15 22:21 23:9,20 23:22,23 24:1,6 24:11,14,24 25:11,12,20,22 26:6,18,21,23 federally (1) 19:19 field (1) 26:6 filed (4) 4:19 8:2 11:20 13:20 filing (2) 8:15 23:13 finance (4) 23:22 26:4,10,17 finances (1) 25:16 find (5) 27:4 28:6,17,23 29:6 First (3) 6:22 7:2 14:22 fits (2) 7:5,9 flatly (1) 9:3 Floor (1) 1:17 flows (1) 22:3 foregoing (2) 30:4,7 form (1) 7:10 forward (1) 25:5 found (1) 12:15 four (1) 16:10 Fourth (1) 2:3 full (2) 29:8 30:8	funded (2) 17:18 19:20 funding (31) 8:20 9:1,9,10,24 10:1,24 11:9 16:3,7,12,17,21 16:23 17:1,5,10 17:13,14,15,24 18:4,6 20:18,22 21:1,9,12,15,21 22:8 funds (2) 9:16 18:23 further (1) 6:13 furthermore (2) 11:4 14:18 <hr/> G <hr/> G (2) 3:2 7:9 general (3) 7:9 11:14 23:21 give (1) 13:12 go (4) 14:11 18:8 24:9 25:5 goes (1) 18:2 going (1) 19:8 Good (1) 6:20 governed (3) 15:4,11 25:11 government (2) 22:4 26:18 great (1) 15:24 grounds (1) 16:5 group (1) 25:6 <hr/> H <hr/> H (2) 1:14 8:14 hac (1)
--	---	---	---	--

3:14		item (1)	Lamar (3)	23:2
Hamilton (1)	I	4:14	11:24 12:7,12	materials (4)
23:15	identifying (1)	items (1)	language (3)	24:19 25:3,18,20
hand (1)	7:17	3:9	7:10,22 20:21	matter (3)
30:12	Illinois (1)		LaRue (7)	3:7 12:2 29:7
handed (1)	15:23	J	2:7 3:20,21,22	matters (1)
21:23	imagine (2)	J (1)	4:2,23 5:4	15:2
happened (1)	22:24 23:2	30:23	law (20)	mechanism (3)
9:2	immediate (1)	James (5)	9:6,8,14 15:7	9:10,24 10:1
happening (1)	18:14	2:8 3:24 4:11	16:2 19:15,17	meet (1)
10:7	impliedly (1)	20:2,7	19:18,19 20:20	26:21
Harvey (1)	10:9	JENNIFER (1)	21:5,20 23:18	meeting (4)
1:14	impose (2)	30:18	23:24 24:6	4:18 5:9 11:6,13
Haute (2)	19:11,16	John (1)	25:11,14,22	member (1)
2:7 20:8	incest (5)	1:13	26:6,10	6:22
health (6)	16:19,22 17:2,4	Johnson (2)	laws (4)	members (7)
8:11 10:8,12,23	17:24	10:22 21:8	15:6 23:22 24:16	3:6 4:6 6:16,20
21:17,19	included (2)	Joseph (2)	24:20	8:6 11:2,7
hear (2)	9:8 19:6	2:7 3:20	lawyer (2)	mentions (1)
6:12 14:9	includes (3)	Joyce (1)	3:15,23	16:16
hearing (6)	8:11,20 22:1	16:16	lead (1)	merely (2)
6:6 13:16,17	Indiana (2)	Jr (4)	8:24	8:4,14
14:20,24 29:7	2:7 20:8	2:8 3:24 20:3,7	letter (1)	million (1)
hereunto (1)	indicated (2)	July (1)	14:1	7:16
30:11	5:2,5	18:18	life (4)	minute (1)
high (1)	indicating (1)	jurisdiction (4)	16:18,22 17:1,23	20:12
10:19	17:9	14:8 23:4 27:7,19	limited (1)	mistake (1)
highly (1)	indication (1)	jurisdictional (1)	17:23	4:3
19:16	8:3	22:12	limits (1)	morning (5)
high-risk (7)	influence (1)		16:17	5:3 6:7,13,20 9:5
10:16 11:1 18:16	22:21	K	Lipps (1)	morning's (2)
18:23 19:13	instance (1)	keep (1)	15:23	5:9,16
21:14,16	24:4	14:10	List (8)	mother (3)
Honor (1)	insurance (4)	kind (1)	1:9 3:12 7:15	16:18 17:2,24
6:3	10:17 18:15,24	3:8	11:11,15 12:9	motion (11)
House (2)	19:13	kinds (1)	16:6 24:5	3:17,23 5:10 6:9
19:10,11	involved (1)	24:2	listed (1)	27:3,15 28:22
house-cleaning ...	5:23	know (3)	4:20	29:2,3,10,18
3:9	involving (1)	4:15 20:3 23:21	look (3)	move (3)
Human (2)	15:9	KOONTZ (1)	11:4 21:7 25:19	4:9 6:5 29:6
10:23 21:18	issue (6)	30:18	LPA (1)	moved (1)
hundred (3)	5:22 22:18 23:7	Kristin (1)	2:2	6:11
8:1,23 9:21	24:18 26:15,19	11:5	M	Mroczkowski (...)
Hyde (5)	issued (4)		M (1)	1:14 3:4,18 4:5
17:20 18:21	8:14 11:21 12:8	L	2:4	4:10 6:10,17
20:19,23 21:1	18:19	L (1)	majority (3)	12:20 13:7 14:7
hypothetical (1)	issuer (2)	30:18	15:20 16:1,4	20:10 22:9 23:5
10:7	22:5,7	lack (2)	making (1)	26:12,24 27:6
	issues (2)	27:7 29:2		27:13,14,17
	14:9 28:2			

28:1,10,13,21 29:1,9,16,17	obvious (1) 16:9	o'clock (2) 1:19 29:22	place (2) 13:23 24:13	prior (2) 4:17 27:23
N	occur (2) 9:2 12:5	P	placed (1) 25:12	pro (1) 3:14
N (2) 3:2 18:20	October (2) 1:18 8:15	P (1) 3:2	places (1) 25:1	probable (10) 1:3 4:21 12:15 13:17 14:24 27:5 28:6,18,24 29:6
name (2) 7:18 20:1	office (1) 30:12	page (3) 7:12,14 10:3	plans (5) 10:17 18:15,24 19:5,9	problem (1) 26:22
narrow (1) 21:10	Oh (2) 4:1 20:6	pages (4) 8:2,23 9:21 10:2	playback (1) 30:6	procedural (1) 26:5
nationwide (1) 24:10	Ohio (17) 1:2,16,18 2:3 3:22 12:3 22:21 23:13 24:8,13 24:15,16,19 26:2,2 30:13,19	paid (1) 26:16	points (1) 20:16	proceeding (1) 25:4
need (2) 5:10 10:2	Ohio's (3) 23:17 25:13,23	panel (2) 1:3 4:21	policy (1) 16:23	proceedings (5) 1:13 29:21 30:4,7 30:9
needs (1) 4:15	okay (2) 4:1 20:6	paragraph (3) 10:22 12:6 21:11	political (9) 7:4,6,20 8:17,21 11:21 23:12 24:18 25:1	Professor (1) 16:15
neither (1) 18:21	operating (1) 25:9	part (5) 17:22 22:6,23,24 26:17	pools (6) 10:16,19 11:1 19:13 21:15,16	prohibit (1) 21:14
never (4) 9:1 10:13 12:6 22:3	operations (1) 26:1	participate (1) 13:15	position (2) 11:12 24:21	prohibition (4) 9:13,16 21:23 22:1
new (3) 10:15 20:21 21:20	opinion (3) 8:5,14,18	particular (3) 5:13 6:24 24:4	PPACA (1) 18:22	promoted (1) 11:23
newly (1) 19:12	opponent (1) 7:19	parties (2) 5:17,23	preempt (1) 24:1	provide (2) 15:6 16:7
Nos (1) 1:8	opposed (2) 6:17 16:5	passage (1) 15:17	preempted (2) 15:7 23:21	provides (1) 16:2
Notary (1) 30:19	opposite (2) 9:20 11:12	passed (1) 9:6	preexisting (5) 10:18 18:15,24 21:4,20	providing (1) 17:5
notion (1) 8:13	order (1) 7:13	passes (2) 27:15 29:18	preference (2) 5:5,7	provision (13) 9:8,13,22 10:4 16:17 17:10,12 17:21 18:9,10 18:12,21 19:4
number (1) 18:12	ordered (4) 11:24 12:12 13:5 14:15	patients (1) 18:16	prescribes (2) 26:7,8	provisions (4) 16:10 17:9,14 21:22
O	ordering (1) 14:3	Paul (2) 2:4 6:21	present (1) 11:8	pro-life (3) 7:16 11:6,14
O (1) 3:2	orders (1) 12:8	pay (1) 22:2	President (1) 24:13	public (2) 17:15 30:19
Obama (2) 19:6,15	organization (1) 23:11	perform (1) 10:10	press (1) 14:14	publication (1) 7:10
Obamacare (6) 15:17,18,21 17:3 17:18,23	organizations (3) 11:7,14 25:9	performed (1) 10:13	presumably (1) 23:14	publicly (1) 17:18
objection (3) 4:7,8,13	outlined (1) 12:17	permitted (1) 20:22	prevented (1) 18:23	
objects (1) 17:7	out-of-state (4) 3:12,15 22:19,20	person (1) 3:19	prevents (2) 17:10,12	
obligation (2) 22:18 24:4		Philip (1) 1:16		
		pivotal (1) 11:5		

pulled (1) 22:22	19:18	respondent (3) 3:11 4:24 8:2	seal (1) 30:12	6:14
purposes (1) 6:6	refutation (1) 11:15	respondents (3) 1:10 2:9 6:1	second (6) 6:8 7:24 16:16 27:7 29:2,9	simply (1) 12:13
put (6) 12:1,10,13 14:4 14:16 23:1	regard (7) 22:14 25:10,15 25:18 26:3 27:4 29:5	response (2) 8:2 22:15	seconded (1) 6:11	sir (4) 3:22 14:10 19:24 28:8
Q	registered (1) 24:17	restrictions (1) 25:1	secondly (2) 15:13 17:8	site (1) 7:18
question (1) 22:12	regulation (1) 10:14	restrictive (1) 19:17	Secretary (1) 23:16	situation (1) 9:17
questions (2) 22:9 23:6	related (1) 26:16	retraction (1) 8:16	section (2) 9:15 18:11	situations (1) 24:2
quote (4) 7:15 8:8,18 11:24	relates (10) 3:10 5:13 23:24 24:23 25:5,7,24 26:3,4,9	Richter (22) 1:16 3:6,20 4:1,3 4:14 5:20 13:9 20:12 23:11 24:22 25:17 27:9,11,13,15 27:21 28:5 29:12,14,16,18	sections (1) 24:24	Sixth (3) 1:17 2:6 20:7
R	release (1) 14:14	right (8) 4:2,16,20 6:4 15:1 16:20 17:20 28:15	see (2) 5:2 22:17	sorry (3) 4:1 20:3,6
R (2) 1:13 3:2	remind (1) 8:6	rights (2) 14:22 23:8	segregate (1) 22:5	source (1) 9:9
race (3) 15:4,9,11	renewed (1) 18:3	risk (1) 10:19	segregation (2) 22:2,6	sources (1) 21:20
races (1) 15:4	report (1) 18:20	roll (2) 27:8 29:11	sent (1) 14:1	South (2) 2:6 20:7
raise (2) 10:6,15	Reporter (1) 30:18	rule (2) 19:7,8	separate (3) 13:4 17:21 22:3	so-called (1) 7:16
rape (5) 16:18,22 17:2,4 17:24	representation ... 20:17	ruled (2) 21:17 26:20	September (1) 30:19	speak (1) 15:2
reality (2) 10:11,11	representative (1) 24:9	rules (1) 26:17	Service (3) 18:18,19 19:3	specific (2) 16:17 17:10
really (1) 11:9	Republicans (1) 15:19	S	Services (2) 10:23 21:18	specifically (1) 17:14
Rebuttal (1) 20:10	Request (1) 3:13	S (1) 3:2	set (2) 29:7 30:11	specter (2) 10:6,15
recognition (1) 11:15	required (1) 25:22	saying (2) 6:15 16:6	settled (1) 12:2	spoken (1) 12:7
recommend (1) 3:15	requirement (1) 15:8	says (3) 12:5 21:11 22:13	Shapiro (18) 1:14 4:8 5:18 6:1 6:4 18:11 19:24 20:5,9 22:10,11 24:7 25:15 27:9 27:10 29:4,14 29:15	staff (1) 5:1
recommendatio... 5:14,24 28:3,5,17	requirements (1) 25:12	SBA (5) 7:5,15 11:11,15 12:9	show (2) 4:11 10:4	stand (1) 28:10
record (4) 4:10,12 20:1 28:9	requires (1) 19:15	Schneider (1) 2:2	showed (1) 9:22	standpoint (1) 14:23
recorded (2) 30:5,9	Research (3) 18:17,19 19:3		significant (1) 16:1	start (1) 28:15
reference (3) 14:3 16:11 20:19	reserve (1) 12:18		signify (1)	state (6) 15:6,8 19:24 23:16 26:19 30:19
references (1) 21:19	respect (1) 10:2			stated (2) 9:3 11:13
refers (1)				statement (11)

11:3,8,19 12:4 12:23 13:4 15:14 19:20 24:23 28:2 29:5 statements (6) 5:21 13:1,2,3 25:2 27:18 state-approved ... 15:10 status (2) 5:13 23:10 statute (6) 17:19 18:4,6,22 24:24 25:23 statutes (2) 23:23 24:1 statutory (2) 17:12,17 Steve (3) 1:6 6:21 8:19 stop (1) 16:20 stopped (1) 13:12 story (1) 21:2 Street (3) 1:17 2:6 20:8 subject (3) 23:3 24:16,20 subjected (1) 23:17 submissions (1) 16:12 submitting (1) 24:18 substantiated (1) 27:22 sue (1) 13:22 suffer (1) 14:21 suffering (2) 13:18,19 suggesting (1) 5:18 suit (1) 14:6 support (3)	16:24,24 18:2 sure (2) 5:11 24:21 Susan (4) 1:9 3:11 16:6 24:5 <hr/> T <hr/> take (4) 4:15 21:7 24:12 26:22 taken (3) 1:16 3:7 11:12 talked (1) 9:5 talking (2) 12:21 15:16 talks (1) 21:9 taxpayer (6) 8:20 16:21,22 17:1 21:9,12 taxpayer-funde... 8:8,11 12:11 15:15 tell (1) 8:4 temporary (1) 18:14 tend (1) 24:3 Terre (2) 2:7 20:8 thank (5) 13:8,14,15 20:9 20:14 thesis (1) 21:13 thing (2) 14:20 28:15 things (1) 9:1 think (2) 26:14,20 third (1) 11:18 threatened (3) 12:10 13:22 14:5 three (2)	6:23 13:2 Thursday (1) 1:18 time (3) 11:11 12:19 13:10 times (1) 26:19 today (2) 5:15 13:18 today's (1) 4:20 totally (1) 22:5 Tower (1) 2:3 transcribed (1) 30:6 Transcriber (1) 30:23 transcript (2) 30:7,8 transmitted (1) 30:5 true (4) 19:5,21 21:16 30:8 try (1) 10:3 trying (1) 22:20 TV (1) 25:19 two (10) 5:19 12:24 14:21 16:14 17:8,11 27:15 28:14,24 29:18 <hr/> U <hr/> undersigned (1) 30:3 understand (4) 14:23 21:22 24:11,21 understood (1) 14:13 unquestionably... 17:6	Unquote (2) 8:9,12 upheld (1) 27:23 use (3) 9:16 18:23 20:15 <hr/> V <hr/> various (1) 25:8 vast (2) 15:20 16:4 vice (1) 3:14 Vine (1) 2:3 violation (2) 7:3,23 voluntarily (1) 19:11 vote (3) 16:7 21:11,12 voted (18) 7:17 8:8,10,19,22 9:4,6,14,18,19 9:23 15:14,19 15:21,22 18:5 21:3,5 voting (1) 12:11 vs (1) 1:8 <hr/> W <hr/> Waite (1) 2:2 want (5) 5:12 7:2 16:10 20:24 21:7 wanted (1) 13:7 wants (1) 23:1 Washington (1) 24:10 Web (1) 7:18 weeks (1) 14:21	went (1) 13:10 West (1) 1:17 we'll (3) 14:11 27:8 28:15 we're (2) 14:9 19:8 we've (5) 9:5 13:18 26:14 26:19,20 whatnot (1) 23:2 what-ifs (1) 8:24 WHEREOF (1) 30:11 White (2) 19:10,10 wishes (2) 27:2 28:18 WITNESS (1) 30:11 women (1) 19:12 working (1) 23:14 world (1) 13:11 wouldn't (1) 10:2 <hr/> Y <hr/> Yeah (1) 5:20 year (3) 18:3,3,3 years (1) 10:13 <hr/> \$ <hr/> \$1.5 (1) 7:15 <hr/> 0 <hr/> 084 (1) 29:5 096 (5) 28:4,11,12,16
---	--	---	---	---

29:6	1:8 4:19 6:6,12			
	28:23			
<u>1</u>	<u>2013 (1)</u>			
1 (1)	30:19			
7:12	2014 (1)			
10:26 (1)	10:19			
29:22	21 (1)			
100 (1)	1:17			
10:2	23rd (1)			
101 (1)	18:18			
18:13				
1101 (1)	<u>3</u>			
18:14	3:00 (1)			
1302 (1)	4:20			
9:15	30 (1)			
1303 (1)	10:13			
21:24	34 (1)			
14 (2)	15:18			
1:18 21:11				
15 (1)	<u>4</u>			
30:19	4 (1)			
1513 (1)	12:6			
2:3	40 (1)			
1976 (1)	10:22			
21:6	45202 (1)			
	2:3			
<u>2</u>	47807 (2)			
2 (1)	2:7 20:8			
7:14				
2(A) (3)	<u>7</u>			
7:10,21,23	7th (1)			
20 (1)	8:15			
22:17				
20(A) (1)	<u>9</u>			
7:3	9:55 (1)			
2009 (1)	1:19			
28:8				
2009E-084 (1)				
28:3				
201E-084 (1)				
1:8				
2010 (3)				
1:18 28:8 30:14				
2010E-084 (6)				
3:5 6:5,12 28:12				
28:16,23				
2010E-086 (1)				
28:11				
2010E-096 (5)				